

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

68-0157 (9-06) - 3091078 - EI

ALVARO FONSECA
Claimant

APPEAL NO: 10A-UI-00321-DWT

**ADMINISTRATIVE LAW JUDGE
DECISION**

**IOWA WORKFORCE
DEVELOPMENT DEPARTMENT**

**OC: 11/22/09
Claimant: Appellant (1)**

Section 96.3-7 – Recovery of Overpayment of Benefits
871 IAC 26.8(5) – Decision on the Record

STATEMENT OF THE CASE:

The claimant appealed a representative's January 6, 2010 decision (reference 05) that held he had been overpaid \$448.00 in benefits he received for the week ending December 19, 2009. The overpayment occurred as the result of a December 28, 2009 decision that held him ineligible to receive benefits as of December 14, 2009. A telephone hearing was scheduled on February 13, 2010. The claimant did not respond to the hearing notice or participate in the hearing. Based on the administrative file and the law, the following findings of fact, reasoning and conclusions of law and decision are entered.

ISSUE:

Has the claimant been overpaid \$448.00 in benefits for the week ending December 19, 2009?

FINDING OF FACT:

The claimant filed a claim for the week ending December 19, 2009. He received his maximum weekly benefit amount of \$423.00 plus an additional \$25.00 from the government's economic stimulus program for this week. The claimant appealed a representative's January 6 decision that held he was eligible to receive benefits as of January 4, 2010, or after he provided documentation he was authorized to work in the United States. This decision has been affirmed. See decision for appeal 10A-UI-00495-DWT. The decision issued on December 28, 2009, that held the claimant was not eligible to receive benefits as of December 14, 2009, has not been reversed.

REASONING AND CONCLUSIONS OF LAW:

If an individual receives benefits he is not legally entitled to receive, the Department shall recover the benefits even if the individual acted in good faith and is not at fault in receiving the overpayment. Iowa Code § 96.3-7. Based on the decision for appeal 10A-UI-00495 and a representative's December 28, 2009 decision, the claimant is not legally entitled to receive

benefits for the week ending December 19, 2009. He has been overpaid \$448.00 in benefits for this week.

The Department used benefits the claimant was legally entitled to receive for the weeks ending January 9 and 16, 2010 to offset the overpayment. As of the date of this decision, the claimant does not owe the Department any money.

DECISION:

The representative's January 6, 2010 (reference 05) is affirmed. The claimant was overpaid \$448.00 in benefits he received for the week ending December 19, 2009. The Department has already recouped this overpayment from benefits the claimant was entitled to receive during the weeks ending January 9 and 16, 2010. As of February 13, 2010, the claimant does not owe any money to the Department.

Debra L. Wise
Administrative Law Judge

Decision Dated and Mailed

dlw/css